

9. Abstract

Enforcement of judgment under the Execution Procedure Code

I have chosen to explore this topic because I have been following the respective subject matter for some time and therefore I have found it useful and interesting for me to further enhance my knowledge of the aforementioned area by writing my Master's Degree Thesis about it. Moreover, the legal regulations with respect to execution (i.e. enforcement of decisions of courts or other authorities) through court executors represent a fairly new concept in the Czech Republic. This legal institute was adopted by Act No. 120/2001 Coll., on court executors and execution activities (Execution Procedure Code). The main objective that Czech legislators attempted to achieve by enactment of this Act was to provide the entitled party with opportunity to enforce its rights by other means than through the procedure of their enforcement by court. Court enforcement has proven over the time to be a very ineffective and time-consuming process.

My study is focused on the execution proceeding, mainly on its general part. I attempt to provide comprehensive summary with respect to the course of the execution proceeding and pay specific attention to those provisions with difficult and problematic interpretation that created complications in judiciary practice in the past and resulted in different understanding of their meaning by various courts. Czech Supreme Court tried to unify the inconsistent case law and for this reason I often cite its conclusions in my thesis.

The paper is divided into several chapters.

The first chapter provides a short introduction that along with the second chapter attempts to make the reader familiar with the issue in question. It concerns the concept of enforcement of decisions and execution proceeding along with related terminology, approaches the circumstances of adoption and enactment of the Execution Procedure Code and lists the legal regulations with respect to the execution proceeding.

The third chapter forms the most important part of my study, since it describes the actual execution proceeding, in particular its general part. This chapter is divided into several sub-chapters, which are further split into a number of sections. The chapter deals with the capacity of the executor, competence of executor and court, participants

of the proceeding, execution title, petition for adjudication of execution and initiation of the proceeding, as well as with adjudication of execution and the conduct of the executor in course of the proceeding, postponement and staying of the proceeding and also with the costs of the execution proceeding.

The fourth chapter concerns the various types of execution, however it is only a short discourse, since my thesis is mainly focused on the general part of the execution proceeding.

The fifth chapter of my paper introduces the issue of the upcoming amendment of the Execution Procedure Code, which is focused on ensuring the principle of proportionality and adequacy of the proceeding, protection of rights of the participants of the proceeding and more accurate determination of rules concerning conduct of executor in course of the proceeding.

The sixth chapter contains the conclusion of the thesis that consists of evaluation of legal regulations including its problematic and questionable parts.

In my study, I came to a conclusion that despite the considerable criticism of executors by the general public and the inadequate legal regulations of the execution proceeding the adoption of the Execution Procedure Code definitely represents a step forward. It ensures the creditors faster and more effective enforcement of receivable in comparison to the court enforcement procedure. However, the controversial issue in this respect remains the protection of fundamental rights of the debtor that are being interfered with in the course of the execution proceeding. The upcoming amendment of the Execution Procedure Code should therefore implement an enhanced protection of those fundamental rights.

Klíčová slova (Keywords):

exekuce (execution)

exekutor (executor)

exekuční řízení (execution proceeding)